

## **REMARKS:**

In response to the final Office Action mailed on June 16, 2005 Applicant wishes to enter the following remarks for the Examiner's consideration. Applicant has amended claims 1 and 14. Claims 1-23 are pending in the application.

### **Claim Rejections 35 USC 102(b)**

**Claims 1-13** are rejected under 35 USC 102 (b) as being anticipated by Buckler, US Patent No. 5,050,088. Applicant has amended claim 1 to give the preamble patentable weight and clarify subject matter in the claims as originally filed. No new matter or issues requiring further search is raised by this amendment.

This rejection is improper because, as will be shown, the Buckler reference does not contain every element and limitation as contained in and arranged as recited in the claims. Contrary to the Examiner's statement that all elements are disclosed in the Buckler reference, many of the elements are not, as discussed below; the rejection is thus unsupported by the art and should be withdrawn. The Examiner is respectfully directed to MPEP §2131 which provides:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 \*Fed. Cir. 1989). The elements must be arranged as required by the claim.

### **Claim 1**

Examiner has stated a correspondence between the elements of claim 1 and what is taught by Buckler, but Examiner has not shown where Buckler teaches "A method for facilitating modification of a hardware state of a fixture system". Applicant

respectfully submits that a production control system, such as described by Buckler, cannot rationally be equated to the fixture system or device of the claims.

The Examiner has not shown where Buckler teaches a fixturing device which is in Applicant's claim 1, and so certainly does not teach modification of a hardware state of a fixture system. Buckler teaches a production control system and an associated method for interfacing automated material handling systems to manufacturing work cells (abstract), but there is no mention of a fixturing device or a fixturing system. And, significantly, the Examiner has not noted with particularity where such teaching of a fixturing device or fixturing system occurs in the Buckler reference.

The Applicant notes that a fixturing system and fixturing device are clearly described in the Background section of Applicants Application. From Applicant's Background Section (page 2, lines 13-21):

"A fixturing device is a mechanical device that is capable of holding a product stationary and supports motions that allow for connection to the product. A fixture system comprises a fixturing device, and the associated hardware and software that are used to interact with the product under test. A fixture system is often used in an automated or semi-automated environment. The product that resides within a fixturing device can require customization for integration between the fixturing device and the product. Some examples of products that may be placed within a fixturing device of a fixture system are cellular phones, printed circuit boards, portable receivers, etc."

From the above description of a fixturing device, Applicant asserts that Buckler does not teach, suggest, disclose or anticipate the use of a fixturing device or fixturing system. Buckler instead is non-analogous art that is directed to a production control system, and the associated control software and command scripts.

The Examiner has referred to Col.2 lines 15-22 of Buckler for the teaching of a fixturing device, but this column of Buckler contains no teaching, suggestion, disclosure of a fixturing device. A careful reading of Buckler fails to locate any support in Buckler for a fixturing device of a fixturing system. Rather Buckler is

directed to a manufacturing system in a production control environment, which is not the same as a fixturing system operable to perform test and measurement of a device.

In light of the above arguments, Applicant respectfully notes that there are significant differences between the recitations of Applicant's claim 1 and what is taught by Buckler. Applicant respectfully requests reconsideration and allowance of claim 1 and its dependent claims at the Examiners earliest convenience.

Referring to claim 2-13, Applicant notes that claims 2-13 depend from claim 1 which has been shown to be patentable. Reconsideration and allowance of claims 2-13 is therefore respectfully requested at the Examiner's earliest convenience. Although additional arguments could be made for the patentability of each of these claims, such arguments are believed unnecessary in view of the above discussion of claim 1. The undersigned wishes to make it clear that not making such arguments at this time should not be construed as a concession or admission to any statement in the Office Action.

#### **Claim Rejections 35 USC §103 (a)**

**Claims 14-23** are rejected under 35 USC 103(a) as being unpatentable over Applicant's Admitted Prior Art (AAPA) in view of Buckler. Applicant asserts that the basis for this rejection is removed in light of the above arguments concerning the 102 (b) rejection of claim 1 in view of Buckler. The use of the Buckler reference is inappropriate since Buckler does not teach, suggest, disclose or anticipate a fixturing device or fixturing system as recited in Applicant's claim 1 or claim 14. Applicant respectfully declines to make amendments to claims 15-23 at this time. However, in the event that the rejection of claim 14 is maintained, Applicant herewith reserves the right to amend these claims. Reconsideration and allowance of claims 14-23 is respectfully requested at the Examiner's earliest convenience. Although additional arguments could be made for the patentability of each of the claims, such arguments are believed unnecessary in view of the above discussion. The undersigned wishes

to make it clear that not making such arguments at this time should not be construed as a concession or admission to any statement in the Office Action.

No amendment made herein was related to the statutory requirements of patentability unless expressly stated herein. No amendment made was for the purpose of narrowing the scope of any claim unless an argument has been made herein that such amendment has been made to distinguish over a particular reference or combination of references.

Please contact the undersigned if there are any questions regarding this response or application.

Respectfully submitted,



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